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17 *Attorneys for Plaintiffs John Hastings and Jill*
18 *Hastings, Individually and on behalf of all*
19 *others similarly situated*

20 **UNITED STATES DISTRICT COURT**
21 **DISTRICT OF NEVADA**

22 JOHN HASTINGS AND JILL
23 HASTINGS, INDIVIDUALLY AND
24 ON BEHALF OF ALL OTHERS
25 SIMILARLY SITUATED,

26 Plaintiffs,

27 v.

28 TRIUMPH PROPERTY
MANAGEMENT CORPORATION
AND KIXIE ONLINE, INC.

Defendants.

Case No.: 2:16-cv-00213-JAD-PAL

JOINT STIPULATION AND ORDER
TO WITHDRAW TRIUMPH
PROPERTY MANAGEMENT
CORPORATION'S MOTION TO
DISMISS

ECF Nos. 46, 52

IT IS HEREBY STIPULATED BY AND BETWEEN Plaintiffs, John Hastings and Jill Hastings (hereinafter collectively "Plaintiffs"), and Defendant, Triumph Property Management Corporation (hereinafter "Triumph"), through their respective attorneys of record, and subject to this Honorable Court's

1 approval thereon, that the parties hereto jointly agree and hereby do request that
2 this Honorable Court issue an Order **(i)** permitting Triumph to withdraw without
3 prejudice its pending Motion to Dismiss filed on February 15, 2017 and thereby
4 order the Motion to Dismiss withdrawn , such that none of the parties supporting
5 or opposing the Motion to Dismiss be deemed a prevailing party for the purpose
6 of the Motion to Dismiss and **(ii)** requiring Triumph to file and serve a
7 responsive pleading to Plaintiffs' operative First Amended Complaint no later
8 than 14 days following receipt of notice of this Honorable Court's entry of the
9 Order corresponding with the instant Joint Stipulation.

10 It is further understood and agreed by the parties hereto that it is the intent
11 of Triumph to withdraw its pending Motion to Dismiss and thereby permit
12 Triumph to file and serve a responsive pleading to Plaintiffs' First Amended
13 Complaint, without waiving Triumph's rights to assert any Counterclaims,
14 Crossclaims, Third Party Claims and make any amendments thereto, which
15 Triumph may file and serve in compliance with the *Federal Rules of Civil*
16 *Procedure*.

17 The parties' instant Joint Stipulation is based upon the following general
18 representations:

19 1. On or around February 3, 2016, Plaintiffs instituted the pending
20 action by filing their Complaint.

21 2. Thereafter, Triumph's initial counsel of record, Mr. Jacob L. Hafer,
22 Esq. of HafterLaw (hereinafter "HafterLaw"), filed a Notice of Appearance of
23 Counsel on or round March 30, 2016.

24 3. Subsequently, Triumph, through HafterLaw, filed a Motion to
25 Dismiss, Motion to Strike and Motion to Stay Discovery.

26 4. Triumph's above-referenced Motions culminated in Plaintiffs'
27 seeking leave to file a First Amended Complaint, which this Honorable Court
28 granted, and resulted in the filing of a First Amended Complaint by Plaintiffs on

1 or around January 27, 2017, which remains operative.

2 5. Triumph, through its initial counsel of record, HafterLaw, filed a
3 Motion to Dismiss on February 15, 2017, which has not yet been heard by this
4 Honorable Court.

5 6. In or around March 2017, Triumph retained Springel & Fink, LLP
6 for the purpose of representing its interests in the instant action, in lieu of its
7 initial counsel of record, HafterLaw.

8 7. On March 7, 2017, counsel for Plaintiffs and Triumph's newly
9 retained counsel, Springel & Fink, LLP, met and conferred regarding the
10 procedural posture of the pending action, discovery, Triumph's intended
11 withdrawal of its Motion to Dismiss, and Springel & Fink, LLP's substitution as
12 Triumph's attorneys of record, in lieu of HafterLaw.

13 8. At that time, counsel for Plaintiffs and Triumph's newly retained
14 counsel agreed that a withdrawal of Triumph's Motion to Dismiss and the
15 expeditious filing of a responsive pleading in this action by Triumph would be in
16 the best interests of justice and judicial economy.

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1 9. On March 8, 2017, prior to the filing of the instant Stipulation,
2 Triumph, thorough Springel & Fink, LLP, filed a Substitution of Counsel with
3 this Honorable Court, wherein it respectfully requests that this Court effectuate
4 the Substitution of Counsel filed by Triumph.

5 Respectfully submitted.

6 Dated: March 8, 2017

SPRINGEL & FINK, LLP

8 Bv: /s/ Leonard T. Fink, Esq.

Leonard T. Fink, Esq.
10655 Park Run Dr., Suite 275
Las Vegas, NV 89144
Attorneys for Defendant

11 Dated: March 8, 2017

KAZEROUNI LAW GROUP, APC

13 Bv: /s/ Michael Kind, Esq.

Michael Kind, Esq.
7854 W. Sahara Avenue
Las Vegas, NV 89117
Attorneys for Plaintiffs

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18 **ORDER**

19 Based on the parties' stipulation [52] and good cause appearing, IT IS HEREBY
20 ORDERED that Triumph Property Management's **Motion to Dismiss [46] is DEEMED**
21 **WITHDRAWN** and all deadlines related to that motion are vacated. Triumph has 14 days to
22 file its answer and any other response to the First Amended Complaint [41].

23 
Jennifer Dorsey

24 U.S. District Judge 3/9/17